



The Task Force on Court Facilities
455 Golden Gate Avenue, San Francisco, CA 94102-3660

FINANCE AND IMPLEMENTATION COMMITTEE

Meeting Report

July 27, 2000
915 L Street, Sacramento
Cedar Room

<p>TASK FORCE ATTENDEES: Hon. Wayne Peterson Mr. Tony Tyrrell</p> <p>COMMITTEE MEMBERS: PRESENT: Mr. David Janssen, Chair Mr. Greg Abel Mr. Fred Klass Hon. Charles Smith Hon. Diane Wick</p> <p>ABSENT: None</p>	<p>PRESENTERS: Dr. Thomas Gardner, VITETTA</p> <p>TASK FORCE STAFF: Bob Lloyd Bob Emerson</p> <p>CONSULTANTS TO THE TASK FORCE: Dr. Thomas Gardner, VITETTA Mr. Jay Smith, DMJM Ms. Kit Cole, VITETTA</p> <p>GUESTS: Mr. John Abbott, Orange County Counsel's office Mr. Kevin Carruth, County of Santa Clara Mr. Bruce Doenges, Ventura Superior Court Ms. Karen Finn, Department of Finance Mr. Joseph T. Fallin, Los Angeles Superior Court Ms. Stephanie Larsen, County of San Joaquin Mr. Al Lopez, Sacramento Superior Court Mr. Rubin Lopez, CSAC Ms. Sally Lukenbill, Department of Finance Mr. Bill Kunde, County of Yolo Facilities Services Mr. Jody Patel, AOC Office of Governmental Affairs Mr. John Van Whervin, Los Angeles Superior Court</p>
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Committee agenda

1. Review of timeline and deadlines for Committee work and submission of resolved issues to the Task Force for approval
2. Review of issues resolved to date and issues that remain outstanding
3. Apportioning equity related to mixed-use buildings
4. Results of additional research requested of the consultants
 - A. Historic registry
 - B. Pipeline language
 - C. Non *situs* language regarding fees
 - D. First right of refusal
 - E. Allowable and unallowable costs under Rule 810

Agenda Item #1 – Review of timeline and deadlines

The Committee reviewed the timeline and deadlines

Agenda Item #2 – Review of issues resolved to date and issues outstanding

The Committee reviewed the issues resolved and resolved the outstanding issues, as follows:

Ownership or responsibility

1. The state shall ultimately be fully responsible for all court facilities, including providing facilities for current and future judges and staff.
2. Responsibility for providing new court facilities rests with the state.
3. Responsibility for providing court facilities shall remain with the counties until completion of the negotiations between the state, the courts and the counties.
4. Ownership may include holding fee title or may be accomplished through lease contracts.
5. "State" can include the Judicial Council, the Department of General Services or another entity that holds the title.
6. Responsibilities of parties sharing mixed-use buildings shall be established in the lease agreement.

Fiscal neutrality

1. Responsibility for funding existing debt on facilities shall remain with counties until the debt is retired, either directly or by transferring the revenue stream and debt to the state.
2. The control of court facilities should transfer to the state without a "windfall" to either the counties or the state.
3. Either the existing debt service revenues will transfer to the state with the debt, or if not transferred, the facilities will be leased at minimal cost to the state until the county retires the debt.
4. If title transfers, it shall do so without payment for capitalized value of buildings.
5. Existing *non-Rule 810 facility* operations and maintenance costs shall continue to be funded by the counties through a maintenance of effort (MOE) agreement.
6. The facility operations and maintenance costs MOE will not apply to those buildings, or portions thereof, for which the counties retain ownership.
7. The MOE will be determined based on historical data regarding non-Rule 810 allowable costs related to facilities, as tracked by the counties. Prior to _____(date) each county shall submit to the Department of Finance data regarding non-810 facility costs from the most recent three fiscal years. All data shall be certified by the county auditor prior to being submitted to the Department of Finance.
8. Determination of appraised value shall not be necessary as a condition of transfer.
9. Revenue generated by the Courthouse Construction fees will transfer from the counties to the state, less any funds obligated to debt service, should the outcome of the negotiations between the state, the courts and the counties determine that the debt should remain with the counties. Should the debt transfer to the state, the corollary debt service stream shall also transfer to the state.
10. Once debt service for court facilities is retired, all Courthouse Construction funds, less 25% shall be submitted to the Judicial Council by the counties.

Principles for transfer

1. It is critical to expedite the transfer responsibility for court facilities to the state.
2. The transfer of responsibility shall be accomplished through negotiations between the state, courts and the counties.
3. The state shall not hold the counties liable for deferred maintenance that existed in the base year and for which no funds were earmarked to address that maintenance.
4. Facilities determined as unsuitable for court use may or may not be transferred based on outcomes of negotiations between the state, courts and the counties.
5. Issues regarding occupancy and use of space within a mixed-use building shall be agreed upon by the state, courts and the counties and shall be spelled out in an MOU.
6. Single use court facilities that are not historic are assumed to transfer to the state.

7. All other facilities shall transfer to the state unless the state rejects the building for health, safety or seismic reasons. When the rejection of a building by the state occurs and is appealed by the county to the state Public Works Board, the “burden of proof” to demonstrate the grounds on which the facility was rejected lies with the state.
8. Should a building not transfer to the state from the county because the building is deemed unsuitable by the state, the county shall continue to be responsible for providing court space in that facility for the state, as negotiated.
9. Notwithstanding mutual agreement, new mandates should not be placed on the counties as a condition of the transfer.
10. Certain special classes of facilities, such as historically significant facilities, may or may not transfer, but may be leased by the state for court use.
11. Facilities considered “historic” shall either be registered on the state’s historic register (pursuant to Health and Safety Code 18950) or be eligible for inclusion on the register.

Implementation issues

1. Responsibility for providing court facilities shall transfer from the counties to the state, without a deadline to do so.
2. The state and counties will negotiate on a county-by-county and building-by-building basis in order to determine the most optimal way to provide court facilities in that county.
3. The AOC, the local court and the county will participate in the negotiations regarding the buildings.
4. The state Public Works Board will be the final arbiter in any disputes between the state, courts and counties during the building-by-building negotiations.
5. All counties shall participate in the transfer of responsibility for court facilities from the counties to the state. Under no circumstances will counties have the choice to “opt out” of the transfer process.
6. Both the county and the state will be entitled to equity in court facilities, based on the respective proportional use of area by the courts and by non-court functions that are the responsibility of the county, regardless of which entity holds title to the facility.
7. Any county general funds or property that have been allocated, approved, appropriated, or committed for a court facility project by a county board of supervisors, by resolution or ordinance, shall remain committed to the project.
8. Any county court facility project that is in the design or construction phase shall be the subject of negotiations by the state, courts and county during the transition phase.
9. The state reserves the right to require a county to complete a project in the design or construction phase prior to its transfer to the state.
10. The state reserves the right to dispose of surplus property when title for the property transfers to the state.
11. Prior to disposing of court facilities that were previously the responsibility of the counties, the state shall comply with the requirements of Government Code section 11010.5 et seq.
12. Prior to the state making a decision to sell, lease or otherwise dispose of a court facility transferred from a county to the state, it shall consult and discuss the potential sale, lease or disposition with the affected county. The state shall also consider the following whether the potential new or planned use of the facility:
 - Is compatible the use of other adjacent public buildings.
 - Would interfere with public access to other governmental functions adjacent to the court facility.
 - Would unreasonably depart from the historic or local character of the surround property or local community.
 - Would have a negative impact on the local community.
 - Will unreasonably interfere with other governmental agencies that use or are located in or adjacent to the court facility.

Additionally, the state shall consider whether the decision to cease using the facility or site outweighs a public good in maintaining it as a court facility or site.
13. The counties shall transfer 75% of the unencumbered revenue generated by the Courthouse Construction fee to the Judicial Council for allocation by the Judicial Council. The remaining 25% will be retained by the counties and allocated pursuant to current law.

Agenda Item #3 – Apportioning equity related to mixed-use buildings

This issue was discussed by the Committee and resolved as per #6 Implementation Issues, above. Additionally, Dr. Gardner presented the Committee with principles for negotiation, which were amended by the Committee, as follows:

- ~~1. The state shall receive an MOE payment from the county equal to what the county was already committing to debt service, maintenance or rents.~~
- ~~2. Once responsibility for a building transfers, counties are not responsible for future capital costs. (i.e., repairs, or replacement).~~
- ~~3. 1. The county and state each have equity rights to the space they occupy, regardless of who holds title. The county or state have the same status as a private landlord in any lease agreement, and shall be compensated for improvements or costs associated with future decisions regarding space not originally used by courts. This is true whether the state holds title or the county holds title.~~
- ~~4. 2. Neither the state nor the county shall charge each other rent. The county or state have the same rights as tenants in any lease agreement and shall be given free rent for spaces indefinitely. Requests for Additional space will be paid by the agency desiring more space.~~
3. *In the case of mixed-use buildings, the county shall continue to be responsible for the operations and maintenance costs associated with the share of the building it occupies.*
3. The sale of property is permissible, regardless of which party holds title; however, neither party can be displaced or forced to move at its expense, except by mutual agreement.
4. The option to leave occupied space to move to new space ~~or to replace space occupied~~ is a cost borne by the agency desiring the new space.
5. ~~Regardless of status as titleholder or tenant, t~~ The use of ~~the~~ any space occupied by the county or the state must be compatible with the facility and neither deteriorate nor diminish the ability of both parties either the county or the state to use the remaining spaces effectively.

Agenda Item #4 – Results of additional research requested of the consultants

The following issues were discussed by the Committee and many were resolved, as reflected in Agenda Item #1, above:

- Historic registry
- Pipeline language
- Non *situs* language regarding fees
- First right of refusal
- Allowable and unallowable costs under Rule 810